



FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Recordkeeping and Disclosure Requirements Associated with the Bureau of Consumer Financial Protection's (Bureau) Regulation E (Electronic Fund Transfers) (FR E; OMB No. 7100-0200).

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by *FR E*, by any of the following methods:

- Agency Website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include Office of Management and Budget (OMB) number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's website at

<http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or

contact information. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, N.W., Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB’s public docket files, if approved. These documents will also be made available on the Board’s public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this

delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB delegated authority to extend for three years, with revision, the following information collection:

Report title: Recordkeeping and Disclosure Requirements Associated with the Bureau of Consumer Financial Protection's (Bureau) Regulation E (Electronic Fund Transfers (EFT)).

Agency form number: FR E.

OMB control number: 7100-0200.

Frequency: Event-generated.

Respondents: State member banks (SMBs) and their subsidiaries, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a; 611-631).

Estimated number of respondents: Gift card exclusion policies and procedures, Gift card policy and procedures, Transmitter error resolution standards and recordkeeping requirements, Acts of agents, Initial disclosures, Change-in-terms, Error resolution, Remittance transfer disclosures, and Time limits and extent of investigations, 970 respondents; Periodic statements, 71 respondents; Pre-acquisition disclosures (short form disclosure) – one time, Pre-acquisition disclosures (long form disclosure) – one time, Periodic statement alternative – one time, and Pre-acquisition disclosures (short form disclosure) – ongoing, 5 respondents; and Internet posting and submission of prepaid account agreements – one time and Internet posting and submission of prepaid account agreements – ongoing, 6 respondents.

Estimated average hours per response: Gift card exclusion policies and procedures, Gift card policy and procedures, Transmitter error resolution standards and recordkeeping requirements, Acts of agents, Remittance transfer disclosures, and Pre-acquisition disclosures (long form disclosure) – one time, 8 hours; Initial disclosures, 0.03 hours; Change-in-terms, 0.02 hours; Periodic statements, 7 hours; Error resolution, 0.5 hours; Time limits and extent of investigation, 4.5 hours; Pre-acquisition disclosures (short form disclosure) – one time, 40 hours; Periodic statement alternative – one time, 24 hours; Internet posting and submission of prepaid account

agreements – one time, 1 hour; Pre-acquisition disclosures (short form disclosure) – ongoing, 4 hours; and Internet posting and submission of prepaid account agreements – ongoing, 0.08 hours.

Estimated annual burden hours: Gift card exclusion policies and procedures, Gift card policy and procedures, Transmitter error resolution standards and recordkeeping requirements, and Acts of agents, 7,760 hours; Initial disclosures, 7,275 hours; Change-in-terms, 6,596 hours; Periodic statements, 5,964 hours; Error resolution, 14,550 hours; Remittance transfer disclosures, 93,120 hours; Time limits and extent of investigations, 52,380 hours; Pre-acquisition disclosures (short form disclosure) – one time, 1,914 hours, Pre-acquisition disclosures (long form disclosure) – one time, 383 hours; Internet posting and submission of prepaid account agreements – one time, 6 hours, Pre-acquisition disclosures (short form disclosure) – ongoing, 191 hours; Periodic statement alternative – one time, 1,148 hours, and Internet posting and submission of prepaid account agreements – ongoing, 2 hours.

General description of report: The Electronic Funds Transfer Act (EFTA) requires consumers be provided meaningful disclosures about the basic terms, costs, and rights relating to electronic fund transfer (EFT) services involving a consumer's account. The disclosures required by the EFTA are triggered by specific events. The disclosures inform consumers, for example, about the terms of the EFT service, activity on the account, potential liability for unauthorized transfers, and the process for resolving errors.

Proposed revisions: Beginning April 1, 2019, entities subject to the Bureau's Regulation E will be required to comply with the following recordkeeping and disclosure requirements related to prepaid accounts in accordance with the Bureau's new final rule.

Pre-Acquisition Disclosures (Section 1005.18(b))

Before a consumer acquires a prepaid account, a financial institution would be required to provide a consumer with a short form disclosure and a long form disclosure. The short form disclosure would be required to include: certain fee information – including any periodic fee, per purchase fee, ATM withdrawal fee, cash reload fee, ATM balance inquiry fee, customer service fee, and inactivity fee (collectively, “static fees”); the number of fee types in addition to the static fees; two additional fee types that generated the highest revenue from consumers during the previous 24 months; statements regarding linked overdraft credit features, registration, and Federal Deposit Insurance Corporation (FDIC)/National Credit Union Association (NCUA) insurance; a reference to the Bureau’s website containing information on prepaid accounts; and information on where the consumer can find the long form disclosure. For payroll card accounts, the short form disclosure would be required to include a statement regarding options to receive wages or salary from the employer. For government benefit accounts, the short form disclosure would be required to include a statement regarding options to receive government benefits. Furthermore, the Bureau requires a financial institution to disclose, in conjunction with the short form disclosure, its name, the name of the prepaid account program, any purchase price for the prepaid account, and any fee for activating the prepaid account.

The long form disclosure would be required to include: a title, including the name of the prepaid account program; information about all fees and the conditions under which they may be imposed; a statement regarding registration and FDIC/NCUA insurance; a statement regarding linked overdraft credit features; a statement containing the financial institution’s contact information; a reference to the Bureau’s website containing information on prepaid accounts; and a reference to the Bureau’s website and telephone number to submit complaints.

Generally, these disclosures would be required to be provided before a consumer acquires a prepaid account, though there are certain exceptions. For prepaid accounts sold at retail locations, however, a financial institution may provide the long form disclosure after acquisition if the short form disclosure contains information enabling the consumer to access the long form disclosure by telephone or on a website and other requirements are met. A similar accommodation is made for prepaid accounts acquired orally by telephone.

The pre-acquisition disclosures would be required to follow specific formatting rules, and, for the short form disclosures, be substantially similar to model forms. If the financial institution uses a foreign language in connection with a consumer's acquisition of a prepaid account, a financial institution would generally be required to provide the pre-acquisition disclosures in that foreign language.

Periodic Statement Alternative (Section 1005.18(c))

Financial institutions will be required to provide periodic statements for prepaid accounts either by providing a periodic statement that complies with section 1005.9(b) or, as an alternative, by making transaction information available to the consumer by telephone, electronically, and in writing upon the consumer's request pursuant to section 1005.18(c).

Initial Disclosures (Sections 1005.18(d)(1)(i) and 1005.18(f)(1))

Financial institutions will be required to include in the initial disclosure required by section 1005.7 all the information required to be disclosed in the pre-acquisition long form disclosure. If a financial institution chooses to provide the alternative disclosures instead of a regular periodic statement, it must modify some of the disclosures included in the initial disclosures.

The Bureau determined and the Board agrees that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2).

Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

Error Resolution Notice and Procedures for Resolving Errors (Sections 1005.18(d)(1)(ii), 1005.18(d)(2), and 1005.18(e))

Prepaid accounts will be required to comply with the limited liability error resolution requirements applicable to other accounts subject to Regulation E. For prepaid accounts where the financial institution provides alternative disclosures to regular periodic statements, the timing requirements for the error resolution procedures are modified. For prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution will generally not be required to comply with the liability limits for unauthorized transactions and error resolution requirements for any prepaid account for which it has not successfully completed its consumer identification and verification process.

A notice concerning error resolution, provided with the initial disclosures and substantially similar to the Bureau's model form for prepaid accounts, will be required to be provided in place of the notice required by section 1005.7(b)(10). Alternatively, for prepaid account programs for which the financial institution does not have a consumer identification and verification process, the financial institution will be required to describe its error resolution process and limitations on consumers' liability for unauthorized transfers or, if none, state that there are no such protections.

An annual error resolution notice substantially similar to the model form for prepaid accounts would be required to be provided in place of the notice required by section 1005.8(b). Alternatively, a financial institution may include on or with each electronic and written account

transaction history, a notice substantially similar to the abbreviated notice for periodic statements contained in the model forms, modified as necessary to reflect the error resolution procedures the financial institution is required to follow.

The Bureau determined and the Board agrees that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2). Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

Change-In-Terms Notice (Section 1005.18(f)(2))

The change-in-terms notice provisions in section 1005.8(a) apply to any change in a term or condition that is required to be disclosed under 1005.7 or 1005.18(f)(1) for a prepaid account.

The Board believes that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2). Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

Disclosures on Device or Entry Point (Section 1005.18(f)(3))

Financial institutions will be required to disclose on the prepaid account access device the name of the financial institution and the website and telephone number a consumer can use to contact the financial institution about the prepaid account. If a financial institution does not provide a physical access device in connection with a prepaid account, the disclosure will be required to appear on the website, mobile application, or other entry point a consumer must visit to access the prepaid account electronically.

The Bureau determined and the Board agrees that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2). Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

Internet Posting and Submission of Prepaid Account Agreements (Section 1005.19)

Prepaid account issuers will generally be required to submit to the Bureau new and amended prepaid account agreements and notification of withdrawn agreements no later than 30 days after the issuer offers, amends, or ceases to offer the agreement. The rule will provide a *de minimis* exception and a limited product testing exception to this requirement.

If an issuer is required to submit a prepaid account agreement to the Bureau and the prepaid account agreement is offered to the general public, the issuer will also be required to post the account agreement in a prominent and readily accessible location on its website. If a prepaid account agreement is not posted on the issuer's website, the issuer must provide a consumer with a copy of the consumer's prepaid account agreement no later than five business days after the issuer receives the consumer's request for the agreement. The consumer must be able to request the agreement by phone.

Legal authorization and confidentiality: Section 904 of the EFTA (12 U.S.C. 1693b) authorizes the Bureau to issue regulations to carry out the purposes of the EFTA, which establishes the basic rights, liabilities, and responsibilities of consumers who use EFT and remittance transfer services and of financial institutions or other persons that offer these services. The Bureau's Regulation E, 12 CFR Part 1005, implements the EFTA. An institution's recordkeeping and disclosure obligations under Regulation E are mandatory. Because the Board does not collect any information pursuant to the Bureau's Regulation E, no issue of confidentiality normally arises. In the event the Board were to obtain information regarding consumer EFT transactions during the course of an examination, such information may be kept confidential under section (b)(8) of the Freedom of Information Act, which protects information contained in or related to an examination of a financial institution (5 U.S.C. 522 (b)(8)).

Consultation outside the agency: The Board consulted with Bureau staff regarding the estimated burden of this information collection.

Board of Governors of the Federal Reserve System, April 25, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

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